

AMENDED IN ASSEMBLY MAY 19, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 581**

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**Introduced by Assembly Member Torlakson**

February 25, 2009

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An act to amend Section 84362 of, *and to add Section 84363 to*, the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 581, as amended, Torlakson. Community colleges: salaries of classroom instructors.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. ~~The board of governors is required to appoint a chief executive officer, who is known as the Chancellor of the California Community Colleges. Existing law establishes community college districts throughout the state, and authorizes these districts to provide instruction at community college campuses. An existing provision requires each community college district to expend, for payment of the salaries of classroom instructors, as defined, 50% of the district's current expense of education, as defined. Existing law establishes community college districts throughout the state, and authorizes these districts to provide instruction at community college campuses. Existing law requires that 50% of each district's current expense of education, as defined, be expended for payment of salaries of classroom instructors, as defined. Existing law requires the governing board of each district to provide for an internal audit in accordance with regulations of the board of governors.~~

*This bill would define classroom instructors to include counselors. This bill would require that, commencing with the 2010–11 fiscal year, 52% of each district’s current expense of education be expended for payment of salaries of classroom instructors. The bill would also allow the board to establish a committee to review the auditing procedures in order to ensure compliance with the requirement that 52% of each district’s current expense of education be paid for the salaries of classroom instructors.*

~~This bill would further provide that, in order to encourage compliance with this requirement, and to determine the extent to which districts are complying with this requirement, the chancellor shall conduct random audits of 5 community college districts each year. The bill would also make various technical, nonsubstantive changes in the provision.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 84362 of the Education Code is amended
- 2     to read:
- 3     84362. (a) As used in this section, “salaries of classroom
- 4     instructors” means:
- 5         (1) The salary paid to each instructor *or counselor* employed
- 6         by the district whose duties require that the full time for which the
- 7         instructor *or counselor* is employed be devoted to the instruction
- 8         of students of the district *or to the provision of counseling services*
- 9         *for the students of the district.*
- 10        (2) The portion of the salary of each instructor *or counselor*
- 11        whose duties require that a part, but not all, of the full time for
- 12        which the instructor *or counselor* is employed be devoted to the
- 13        instruction of students of the district *or to the provision of*
- 14        *counseling services for the students of the district*, which is equal
- 15        to the portion of the full time actually devoted by the instructor *or*
- 16        *counselor* to teaching *or to the provision of counseling services to*
- 17        *the students of the district.*
- 18        (3) The salary paid to each instructional aide employed by the
- 19        district, any portion of whose duties are required to be performed
- 20        under the supervision of an instructor. However, the cost of all
- 21        health and welfare benefits provided to the instructors by the

community college district shall be included within the meaning of “salaries of classroom instructors.”

(b) ~~(1) As used in this section, an “instructor” means an employee of the district employed in a position requiring minimum qualifications and whose duties require him or her to teach students of the district for at least one full instructional period each schoolday for which the employee is employed. An instructional period is the number of minutes equal to the number of minutes of the regular academic period in the community college in which the instructor is employed. the following terms have the following meanings:~~

*(1) “Administrator” means any employee in a position having significant responsibilities for formulating district policies or administering district programs; and “supervisor” means any employee having authority, on behalf of the district, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, adjust their grievances, or effectively recommend that action, if the exercise of the authority is not of a merely routine or clerical nature.*

*(2) “Counselor” means an employee of the district employed in a position requiring the minimum qualifications of a counselor.*

*(3) “Instructor” means an employee of the district employed in a position requiring minimum qualifications and whose duties require him or her to teach students of the district for at least one full instructional period each schoolday for which the employee is employed. An instructional period is the number of minutes equal to the number of minutes of the regular academic period in the community college in which the instructor is employed.*

~~(2) As used in this section, “administrator” means any employee in a position having significant responsibilities for formulating district policies or administering district programs; and “supervisor” means any employee having authority, on behalf of the district, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, adjust their grievances, or effectively recommend that action, if the exercise of the authority is not of a merely routine or clerical nature.~~

(c) “Current expense of education” means the gross total expended (not reduced by estimated income or estimated federal and state apportionments) for the purposes classified in the final budget of a district (except one which, during the preceding fiscal

1 year, had less than 101 units of full-time equivalent student) for  
2 academic salaries other than academic salaries for student  
3 transportation, food services, and community services; classified  
4 salaries other than classified salaries for student transportation,  
5 food services, and community services; employee benefits other  
6 than employee benefits for student transportation personnel, food  
7 services personnel, and community services personnel; books,  
8 supplies, and equipment replacement other than for student  
9 transportation and food services; and community services,  
10 contracted services, and other operating expenses other than for  
11 student transportation, food services, and community services.  
12 “Current expense of education,” for purposes of this section, shall  
13 not include those expenditures classified as sites, buildings, books,  
14 and media and new equipment (object of expenditure 6000 of the  
15 Accounting Manual for California Community Colleges), the  
16 amount expended from categorical aid received from the federal  
17 or state government which funds were granted for expenditures in  
18 a program not incurring any instructor salary expenditures or  
19 requiring disbursement of the funds without regard to the  
20 requirements of this section, or expenditures for facility acquisition  
21 and construction; and shall not include the amount expended  
22 pursuant to any lease agreement for plant and equipment or the  
23 amount expended from funds received from the federal government  
24 pursuant to the “Economic Opportunity Act of 1964” or any  
25 extension of that act of Congress or the amount expended by a  
26 community college from state or federal funds received by the  
27 community college for grants to community college students or  
28 for the employment of community college students.

29 (d) ~~There~~ *Commencing with the 2010–11 fiscal year, there shall*  
30 *be expended during each fiscal year for payment of salaries of*  
31 *classroom instructors by a community college district, 50 52*  
32 *percent of the district’s current expense of education. For the*  
33 *purposes of implementing this subdivision, all expenditures*  
34 *included in object-of-expenditure classification 1000, pursuant to*  
35 *the Budget and Accounting Manual for California Community*  
36 *Colleges, shall be included in the numerator, except as follows:*

- 37 (1) *Educational administrators as defined in Section 87002.*  
38 (2) *Prorated salaries of administrators for teaching instruction*  
39 *as part of their regular workload.*  
40 (3) *Salaries of instructors on sabbatical leave.*

(e) If the board of governors determines that a district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom instructors during the preceding fiscal year, the board shall, in apportionments made to the district from the State School Fund after April 15 of the current fiscal year, designate an amount of the apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount so designated by the board of governors shall be deposited in the county treasury to the credit of the community college district, but shall be unavailable for expenditure by the district pending the determination to be made by the board of governors on any application for exemption which may be submitted to the board of governors. In the event it appears to the governing board of a community college district that the application of the preceding subdivisions during a fiscal year results in serious hardship to the district, or in the payment of salaries of classroom instructors in excess of the salaries of classroom instructors paid by other districts of comparable type and functioning under comparable conditions, the governing board may apply to the board of governors, in writing, not later than September 15th of the immediately succeeding fiscal year for exemption from the requirements of this section.

(f) Immediately upon applying for the exemption described in subdivision (e), the governing board shall provide the exclusive representative of the district's academic employees or, if none exists, the district or college academic senate, and all academic employee organizations eligible for payroll dues deduction, with a copy of the application. The exclusive representative, or the district or college academic senate, and all academic employee organizations eligible for payroll dues deduction, within 30 days of its receipt of the application, may transmit to the board of governors a written statement opposing the application, setting forth reasons for its opposition.

(g) Upon receipt of the application described in subdivision (f), duly approved, and of the statement of opposition, if any, the board of governors shall grant the district exemption for any amount that is less than one thousand dollars (\$1,000). If the amount is one thousand dollars (\$1,000) or more, the board of governors may grant the district exemption from the requirement for the fiscal year for which the application is made if a majority of all the

1 members of the board of governors finds, in writing, that the district  
2 will in fact suffer serious hardship or will have to pay salaries of  
3 classroom instructors in excess of those paid by other districts of  
4 comparable type and functioning under comparable conditions  
5 unless the district is granted an exemption. If the exemption is  
6 granted, the designated moneys shall be immediately available for  
7 expenditure by the community college district governing board.  
8 If no application for exemption is made or exemption is denied,  
9 the board of governors shall order the designated amount or amount  
10 not exempted to be added to the amounts to be expended for  
11 salaries of classroom instructors during the next fiscal year.

12 (h) The board of governors shall enforce the requirements  
13 prescribed by this section, and may adopt necessary rules and  
14 regulations to that end. It may require the submission during the  
15 college year, by community college district governing boards and  
16 county superintendents of schools, of the reports and information  
17 as may be necessary to carry out this section.

18 (i) The board of governors, no later than the 10th calendar day  
19 of each year of the Legislature, shall submit to the Legislature a  
20 written report on the operation, effect, and the extent of compliance  
21 with this section by community college districts in the state during  
22 the two most recently ended fiscal years. The report shall describe  
23 the activities of the board of governors and the chancellor's office,  
24 undertaken to ensure compliance with this section, and may contain  
25 recommendations for legislation pertaining to that subject.

26 *SEC. 2. Section 84363 is added to the Education Code, to read:*

27 *84363. (a) The Board of Governors may establish a committee*  
28 *to review the auditing procedures adopted pursuant to Article 2*  
29 *(commencing with Section 84030) to develop ways to ensure*  
30 *compliance with the requirement of subdivision (d) of Section*  
31 *84362 that 52 percent of each district's current expense of*  
32 *education be paid for the salaries of classroom instructors. The*  
33 *members of the committee shall be comprised as follows:*

34 *(1) The Chancellor of the California Community Colleges.*

35 *(2) One certified public accountant, to be selected by the board,*  
36 *who is licensed by the California Board of Accountants and has*  
37 *prepared an annual audit pursuant to subdivision (b) of Section*  
38 *84040.*

39 *(3) One exclusive representative of classified employees of a*  
40 *district, to be selected by the board.*

1     (4) *One district administrator, to be selected by the board.*

2     (b) *The committee shall review local district auditing procedures*  
3 *and recommend to the board any changes to the procedures*  
4 *published in the California Community Colleges Budget and*  
5 *Accounting Manual that may be necessary to achieve the current*  
6 *expense of education requirements contained in subdivision (d) of*  
7 *Section 84362.*

8     SECTION 1. ~~Section 84362 of the Education Code is amended~~  
9 ~~to read:~~

10     84362. (a) ~~As used in this section the following terms have~~  
11 ~~the following meanings:~~

12     (1) ~~“Administrator” means any employee in a position having~~  
13 ~~significant responsibilities for formulating district policies or~~  
14 ~~administering district programs; and “supervisor” means any~~  
15 ~~employee having authority, on behalf of the district, to hire,~~  
16 ~~transfer, suspend, lay off, recall, promote, discharge, assign,~~  
17 ~~reward, discipline other employees, adjust their grievances, or~~  
18 ~~effectively recommend that action, if the exercise of the authority~~  
19 ~~is not of a merely routine or clerical nature.~~

20     (2) ~~“Current expense of education” means the gross total~~  
21 ~~expended (not reduced by estimated income or estimated federal~~  
22 ~~and state apportionments) for the purposes classified in the final~~  
23 ~~budget of a district (except one which, during the preceding fiscal~~  
24 ~~year, had less than 101 units of full-time equivalent student) for~~  
25 ~~academic salaries other than academic salaries for student~~  
26 ~~transportation, food services, and community services; classified~~  
27 ~~salaries other than classified salaries for student transportation,~~  
28 ~~food services, and community services; employee benefits other~~  
29 ~~than employee benefits for student transportation personnel, food~~  
30 ~~services personnel, and community services personnel; books,~~  
31 ~~supplies, and equipment replacement other than for student~~  
32 ~~transportation and food services; and community services,~~  
33 ~~contracted services, and other operating expenses other than for~~  
34 ~~student transportation, food services, and community services.~~  
35 ~~“Current expense of education,” for purposes of this section, shall~~  
36 ~~not include those expenditures classified as sites, buildings, books,~~  
37 ~~and media and new equipment (object of expenditure 6000 of the~~  
38 ~~Accounting Manual for California Community Colleges), the~~  
39 ~~amount expended from categorical aid received from the federal~~  
40 ~~or state government which funds were granted for expenditures in~~

1 a program not incurring any instructor salary expenditures or  
2 requiring disbursement of the funds without regard to the  
3 requirements of this section, or expenditures for facility acquisition  
4 and construction; and shall not include the amount expended  
5 pursuant to any lease agreement for plant and equipment or the  
6 amount expended from funds received from the federal government  
7 pursuant to the “Economic Opportunity Act of 1964” or any  
8 extension of that act of Congress or the amount expended by a  
9 community college from state or federal funds received by the  
10 community college for grants to community college students or  
11 for the employment of community college students.

12 (3) “Instructor” means an employee of the district employed in  
13 a position requiring minimum qualifications and whose duties  
14 require him or her to teach students of the district for at least one  
15 full instructional period each schoolday for which the employee  
16 is employed. An instructional period is the number of minutes  
17 equal to the number of minutes of the regular academic period in  
18 the community college in which the instructor is employed.

19 (4) “Salaries of classroom instructors” means:

20 (A) The salary paid to each instructor employed by the district  
21 whose duties require that the full time for which the instructor is  
22 employed be devoted to the instruction of students of the district.

23 (B) The portion of the salary of each instructor whose duties  
24 require that a part, but not all, of the full time for which the  
25 instructor is employed be devoted to the instruction of students of  
26 the district, which is equal to the portion of the full time actually  
27 devoted by the instructor to teaching students of the district.

28 (C) The salary paid to each instructional aide employed by the  
29 district, any portion of whose duties are required to be performed  
30 under the supervision of an instructor. However, the cost of all  
31 health and welfare benefits provided to the instructors by the  
32 community college district shall be included within the meaning  
33 of “salaries of classroom instructors.”

34 (b) There shall be expended during each fiscal year for payment  
35 of salaries of classroom instructors by a community college district,  
36 50 percent of the district’s current expense of education.

37 (c) If the board of governors determines that a district has not  
38 expended the applicable percentage of current expense of education  
39 for the payment of salaries of classroom instructors during the  
40 preceding fiscal year, the board shall, in apportionments made to



1 the district from the State School Fund after April 15 of the current  
2 fiscal year, designate an amount of the apportionment or  
3 apportionments equal to the apparent deficiency in district  
4 expenditures. Any amount so designated by the board of governors  
5 shall be deposited in the county treasury to the credit of the  
6 community college district, but shall be unavailable for expenditure  
7 by the district pending the determination to be made by the board  
8 of governors on any application for exemption which may be  
9 submitted to the board of governors. If the governing board of a  
10 community college district determines that the application of  
11 subdivisions (a) and (b) during a fiscal year results in serious  
12 hardship to the district, or in the payment of salaries of classroom  
13 instructors in excess of the salaries of classroom instructors paid  
14 by other districts of comparable type and functioning under  
15 comparable conditions, the governing board may apply to the board  
16 of governors, in writing, not later than September 15 of the  
17 immediately succeeding fiscal year for exemption from the  
18 requirements of this section.

19 (d) Immediately upon applying for the exemption described in  
20 subdivision (c), the governing board shall provide the exclusive  
21 representative of the district's academic employees or, if none  
22 exists, the district or college academic senate, and all academic  
23 employee organizations eligible for payroll dues deduction, with  
24 a copy of the application. The exclusive representative, or the  
25 district or college academic senate, and all academic employee  
26 organizations eligible for payroll dues deduction, within 30 days  
27 of its receipt of the application, may transmit to the board of  
28 governors a written statement opposing the application, setting  
29 forth reasons for its opposition.

30 (e) Upon receipt of the application described in subdivision (d),  
31 duly approved, and of the statement of opposition, if any, the board  
32 of governors shall grant the district exemption for any amount that  
33 is less than one thousand dollars (\$1,000). If the amount is one  
34 thousand dollars (\$1,000) or more, the board of governors may  
35 grant the district exemption from the requirement for the fiscal  
36 year for which the application is made if a majority of all the  
37 members of the board of governors finds, in writing, that the district  
38 will in fact suffer serious hardship or will have to pay salaries of  
39 classroom instructors in excess of those paid by other districts of  
40 comparable type and functioning under comparable conditions

1 unless the district is granted an exemption. If the exemption is  
2 granted, the designated moneys shall be immediately available for  
3 expenditure by the community college district governing board.  
4 If no application for exemption is made or exemption is denied,  
5 the board of governors shall order the designated amount or amount  
6 not exempted to be added to the amounts to be expended for  
7 salaries of classroom instructors during the next fiscal year.

8 (f) The board of governors shall enforce the requirements  
9 prescribed by this section, and may adopt necessary rules and  
10 regulations to that end. It may require the submission during the  
11 college year, by community college district governing boards and  
12 county superintendents of schools, of the reports and information  
13 as may be necessary to carry out this section. In order to encourage  
14 compliance with this section, and to determine the extent to which  
15 districts are complying with this section, the chancellor shall  
16 conduct random audits of five community college districts each  
17 year.

18 (g) The board of governors, no later than the 10th calendar day  
19 of each year of the Legislature, shall submit to the Legislature a  
20 written report on the operation, effect, and the extent of compliance  
21 with this section by community college districts in the state during  
22 the two most recently ended fiscal years. The report shall describe  
23 the activities of the board of governors and the chancellor's office,  
24 undertaken to ensure compliance with this section, and may contain  
25 recommendations for legislation pertaining to that subject.